

[Shri Mahavir Tyagi.] the point of view of realising the taxes first.

MR. CHAIRMAN : Let us go to the next item.

SHRI MAHAVIR TYAGI : Mr. Madhavan Nair has resented my words which I used yesterday. I said that a Joint Committee would not do for I think it is not in keeping with the dignity of this House. He said that these were words of flattery to which he raised objections.

SHRI M. L. PURI : They are sarcastic, and not words of flattery. I wish they were words of flattery.

SHRI MAHAVIR TYAGI : My friend has taken a still worse view. I must admit I was really wrong in having handled that point in such a soft manner. I should have expressed my views as I really felt and I am afraid, as far as Mr. Madhavan Nair is concerned, I have cast my words in a wrong corner. If I were a Member of this House, I would not allow my colleagues to take part in a Select Committee appointed by another House without first getting the approval and the reactions of the Members in this House. After all we are legislators and I would not allow Members of this House to go and participate with the Members of another House on a Bill discussed in the other House. Members should have gone only after my own House had agreed to the objects and principles of this Bill.

MR. CHAIRMAN : Mr, Tyagi, it is not relevant.

SHRI MAHAVIR TYAGI : On this point I felt like that. I am more sincere than my friends take me to be.

I think, Sir, my trend has unnecessarily been thrown into a sort of controversy which I did not want myself to raise just now. The House has been very cordial and kind to me and it has been very considerate to my Bill. I have nothing more to say than to thank

the House for the manner in which it has discussed the Bill. I have noted all the reactions of the hon. Members of this House in my book and I might assure them that at the time I meet the Finance Ministers of the States I will keep this record before me and try to see how far I can accommodate the desire of the House. Thank you, Sir.

SHRI K. B. LALL : On a point of information, Sir. The hon. Minister made some remarks about my residence in Old Delhi. Of course, it may be in joke or it may be innocent in his opinion, to look down upon Old Delhi ; but it has afforded me an opportunity to say that I am not guilty. It is on account of.....

MR. CHAIRMAN : Sit down, Mr. Lall. I am on my feet.

The question is : That this Bill be passed.

The motion was adopted.

**PREVENTION OF CORRUPTION
(SECOND AMENDMENT) BILL, 1952—
continued.**

MR. CHAIRMAN : We now pass on to the further discussion of the following motion moved by Shri C. C. Biswas on Friday, the 1st August 1952 :

That this Bill further to amend the Prevention of Corruption Act, 1947, as passed by the House of the People, be taken into consideration.

Shri Biswas would continue his speech.

[MR. DEPUTY CHAIRMAN in the Chair-
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THE MINISTER FOR LAW (SHRI C. C. BISWAS) : Sir, when the House rose on Friday last I had just commenced and spoken only a few words. It is just as well, Sir, that I begin from the beginning. The other day this House passed the Criminal Law Amendment Bill, 1952, which was based on certain recommendations which had been made by the Committee presided over by

Bakshi Tek Chand. The present Bill, Sir, is also the outcome of the Report of the same committee, and seeks to give effect to certain other recommendations. The previous Bill dealt with the recommendations contained in paragraphs 20 and 3 of the Report. We are now concerned, Sir, with the recommendations contained in paragraph 27.

11 a.m.

In this connection, may I point out—I am talking on a point of procedure—that it will perhaps help this

House, when any Bill comes from the other House, that the Bill in the form in which it was introduced in the other House, including the Statement of Objects and Reasons and extracts from other relevant documents that may be annexed should also be made available to Members here. What happens now in the case of a Bill which comes to us from a Select Committee appointed by the other House is that only the Report of the Select Committee, which contains in an appendix the Bill as amended by the Select Committee, comes before the Council. The original Statement of Objects and Reasons is not there, and extracts from relevant documents which are included in the copy of the Bill which is circulated to the Members of the other House, are also not available. The result is that Members of this House are placed at a great disadvantage. If, Sir, instructions were given to the Secretary that in future whenever any such Bills come from the other House, particularly Bills which had passed through the Select Committee in the other House the Bill as originally introduced in the House of the People, including the Statements of Objects and Reasons and extracts from relevant documents be also circulated to Members of this House, it would help greatly. As a matter of fact, Sir, on the last occasion when a reference was made to the Tek Chand Committee Report, I did not happen to have before me a copy of the Report myself and not even a copy of the extracts which I had with me in the 29C. S. D.

other House was with me, and I myself was in very great difficulty. I can very well realise the difficulties of hon. Members who had never a chance at any stage of seeing the Statement of Objects and Reasons and the other documents. Sir, in this present instance, if an extract from the Tek Chand Committee Report containing paragraph 27 had been placed before Members, I could have been spared the necessity of having to deal in detail with the matters to be found there. In fact, the whole of this Bill follows closely the recommendations contained in paragraph 27 of the Report.

SHRI M. L. PURI (Punjab) : In this connection may I ask the Law Minister to have appropriate instructions given to the Secretariat here to comply with his wishes?

SHRI C. C. BISWAS : I have mentioned the matter. It is not for me to give instructions. It is for the Chairman to give instructions to the Secretary of the House and I appeal to the Chairman to take action on these lines, and I am quite sure this will be done because every one of us is anxious that hon. Members should have all the materials placed before them while discussing any important piece of legislation.

Now, you will find, Sir, the other day the other Bill—the Criminal Law Amendment Bill made an important change in the penal law on the subject of corruption. A new offence was provided for. Sections 161 and 165 of the Indian Penal Code dealt with the offence of corruption among public servants, of corruption in two forms—either in the shape of acceptance of gratification other than legal remuneration by a public servant for doing something in the course of his official duties which he would not otherwise have done, or in the form of obtaining a valuable thing without consideration or with consideration which he knows is utterly inadequate. The bribe giver was punished under the existing law

[Shri C. C. Biswas.] only as an abettor, but where the offence was not committed; that is, where a bribe was offered but refused, the punishment for the abettor was very much less than that of the bribe taker who was regarded as the principal offender. By the Bill which was passed by this House, the bribe giver and the bribe taker have been placed on the same footing so far as maximum punishment which can be awarded is concerned. Now, Sir, if you will look at the Prevention of Corruption Act, 1947, you find that a new offence is created which is called criminal misconduct. A description of this offence is given in Section 5. A public servant is said to commit the offence of criminal misconduct in the discharge of his duties if he does certain things, which are specified in four different clauses. The first two clauses provide that he will be guilty of this offence if he habitually accepts—that means agrees to accept, or tries to accept or obtain or attempts to obtain and soon—any gratification other than legal remuneration—in other words, if he is habitually committing the offence under Section 161 of the Indian Penal Code.

DR. P. C. MITRA (Bihar) : What is legal remuneration in the case of Government servants ?

SHRI C. C. BISWAS : Well, I suppose that is the salary and allowances which he received.

DR. P. C. MITRA : The bribetaker is not a private person. He is a public servant and what legal remuneration will he receive ?

SHRI C. C. BISWAS : In the course of his duties as a public servant, he may also have to receive moneys which he does openly and in a straight forward manner. For example, an Income-tax Officer, may collect money from members of the public. This will of course not be his legal remuneration because he does not receive it for himself. But if he receives money for himself which he is not entitled to.

do, that would be gratification other than legal remuneration. The distinction between gratification and legal remuneration is quite clear.

DR. P. C. MITRA : But what is legal remuneration ?

MR. DEPUTY CHAIRMAN : It does not require an explanation. Order order.

SHRI C. C. BISWAS : Then, you have two further clauses. Not habitually committing an offence, but first dishonestly or fraudulently misappropriating or otherwise converting for his own use any property entrusted to him or under his control as a public servant or allowing any other person so to do, is very similar to the offence of criminal breach of trust under Section 409 of the Indian Penal Code. And secondly a public servant by corrupt or illegal means or by otherwise abusing his position as public servant, obtaining for himself or for any other person any valuable thing, or pecuniary advantage. These are the four cases in which the offence of criminal misconduct may be committed under this Act. Now, Sir, not concerned with an amendment of these provisions; they stand. But the Prevention of Corruption Act has introduced a very important and perhaps salutary rule of evidence. Under the ordinary rule of evidence, as all Members know, the onus is on the prosecution to prove the guilt of the accused. The accused starts with a presumption of innocence in his favour.

This presumption must be displaced by the prosecution; otherwise the prosecution fails. Under this Act, in an attempt to tighten the measures against corruption, a new rule has been introduced which raises a presumption against the accused. It provides that in a trial for an offence of bribe taking—whether under section 161 for accepting illegal gratification, or under section 165 for obtaining a valuable thing—it shall be presumed, unless the contrary is proved, that the accused accepted the gratification or obtained the valuable thing as a motive or as a reward such as is men-

tioned in section 161, that is to say, as a motive or reward for doing something which he would not otherwise have done in the normal course of his duties; let me read the words "...as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person or with any public servant, as such..." This is the motive or reward referred to in section 161.

DR. P.-C. MITRA : Can the accused be cross-examined under this section ?

SHRI C. C. BISWAS : Yes, if he offers himself as a witness. As a matter of fact there is a provision that he may give evidence of his own choice. If he is there in the witness box, I believe—I speak subject to correction—he will be subject to cross-examination. But it is for him to decide whether he should step into the witness box. I can tell you what the provisions are. If you refer to section 7 of the Prevention of Corruption Act, you will find that it is laid down that an accused person may be a competent witness : "He shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him", provided that he shall not be called as a witness except on his own request, and his failure to give evidence will not be a point against him at the trial and no presumption can be drawn from that fact to his prejudice. Those safeguards are there.

DR. P. C. MITRA : On oath ?

SHRI C. C. BISWAS : That must be so. When he goes into the witness box, he must take an oath.

Sir, I was pointing out that the Prevention of Corruption Act raises an adverse presumption against the

accused in the case of acceptance of gratification or the obtaining of a valuable thing, the presumption being that the gratification was accepted or the thing was obtained as a motive or reward such as is mentioned in section 161 of the Indian Penal Code. Similarly, an adverse presumption is also raised in the case of an offence of criminal misconduct under this Act. That is under section 5(3), which lays down that in any trial for an offence punishable under sub-section (2)—i.e., for an offence of criminal misconduct, if it is proved that the accused or any other person on his behalf is in possession of resources or property, which he cannot satisfactorily account for and which is disproportionate to his known sources of income, that will raise a presumption, unless the contrary is proved, that he acquired this superfluous wealth for an illegitimate purpose, and he will be liable to punishment. Suppose a man is earning Rs. 500 only and he is found going about in a Rolls Royce car, purchasing new houses, speculating in the share market, and so on, if those facts are proved, that will automatically raise a presumption against him that he acquired extra money in an illegal way—in other words, that he must have been guilty of the offence of criminal misconduct in the discharge of his duty. So, these two presumptions, which may be normally regarded as contrary to the principles of criminal jurisprudence which assume an accused person to be innocent till his guilt is established by evidence by the prosecution, are yet raised against an accused in a prosecution for offences of this kind, namely, bribe-giving, bribe-taking and criminal misconduct. It does not mean that the prosecution is thereby relieved of its duty to prove the case. That is another matter. I need not go into that question. There are House of Lords decisions on that. I need not go into all that. Now the object of the present Bill is this : After the other Bill has been passed it is necessary to provide for a similar presumption also in the case of the new substantive offence of bribe-giving under section 165-A.

[Shri C. C. Biswas.] You will find certain other provisions in the Prevention of Corruption Act. Although no doubt drastic steps are contemplated against a public servant, still even such a person is entitled to some protection. He might be the victim of harassment at the hands of other dishonest public servants : the police might make a false report against him and he might find himself in trouble for nothing. It is provided therefore, that when there is a complaint either under section 161 or under section 165 of the Indian Penal Code or under section 5 of the Prevention of Corruption Act against any public servant, no police officer below the rank of Deputy Superintendent of Police shall investigate any such offence without the order of a magistrate of the first class or make any arrest therefor without warrant. The same protection is now to be extended to a public servant accused of an offence under the new section 165A. Apart from that, it has been found that this clause sometimes is unworkable, because of insufficiency in the number of Deputy Superintendents of Police available for the work of investigation. This specially is the case with the Delhi Special Police Establishment. Then, Sir, in the Presidency-towns of Calcutta, Bombay and Madras, we have no officers of that designation ; we have got other officers of comparable rank, but they are not called Deputy Superintendents—probably they are called Assistant Commissioners and so on. Therefore, an amendment is called for to provide for this situation. Sometimes, again, it happens that while you entrust the investigation to a Deputy Superintendent, if he has got to wait to obtain the sanction of a magistrate of the first class, there will be delay, and this delay may impede the investigation ; probably valuable evidence will disappear. So, the proposed amendment suggests that where there is a chance of valuable evidence being destroyed or concealed or the investigation being otherwise impeded, the officer concerned will be competent to take action without waiting for the formal order of a

magistrate of the first class. But in that case the matter will have to be reported to him at the earliest opportunity. These are the main provisions, Sir, in this Bill and I will now rapidly go through the different clauses. It is not that I am not going to discuss the clauses in detail now but shall just give a general picture.

Clause 2 adds the words "or section 165-A" to the list of offences mentioned in section 3 of the Prevention of Corruption Act, 1947, which says that an offence under section 161 or an offence under section 165 shall be a cognizable offence, that is an offence for which the police officer may arrest without a warrant. Now an offence under the new section 165 A of the Indian Penal Code, will also be cognizable in the same way. Then, Sir, under the same clause another amendment is suggested, namely, the omission of the proviso to that section. That proviso deals with the question of appointing a police officer not below the rank of Deputy Superintendent for the purpose of investigation. Well, it is deleted here, but the whole of this proviso is repeated in the new section 5A which is sought to be introduced under clause 5 of the Bill. There is no change. But it is only

SHRI RAJAGOPAL N A I D U (Madras) : Is it not better to put it as 3A instead of 5A ? It will be more relevant.

SHRI C. C. BISWAS : This question is not dealt with by this amendment. That has already been provided for by an earlier amendment of this Act. If paragraph 27 of the Tek Chand Committee's Report was before him, my hon. friend could at once see for himself. But as this question has been raised, I might just explain the position at this stage.

Originally the life of section 5 which defines the offence of criminal misconduct was limited to a period of three years from the commencement of the Act, namely, three years from nth March 1947 i.e. up to-

nth March 1950. Then the matter was considered more carefully by the Tek Chand Committee and their recommendation was that the life of the measure should be extended to 5 years from the date of commencement. And this amendment was made by an Act passed in 1950. At a later stage, Sir, they said that it should be extended for five years with effect from nth March 1952. So that means io years from the commencement of the Act. This Act as it now stands remains in force till nth March 1957. As already pointed out, the Act was introducing some new principles which militate against the normal principles of criminal jurisprudence, and so they wanted to watch and see how this experiment worked, and that is why they thought of 3 years first, then 5 years and then io years. That is what they did and effect has been given to the interim recommendation.

Sir, I was referring to the proviso to section 3 of the Act. This proviso along with clause (4) of section 5 which also deals with the question of investigation of an offence of criminal misconduct, these two are in similar terms, and both these provisions have been incorporated in the new section 5A which you find under clause 5 of the amending Bill, with some additional changes which were found necessary in consequence of the fact to which I have referred, »namely, the paucity of officers of the rank of Deputy Superintendent and the necessity of obtaining the previous orders of a magistrate of the first class. That is provided, Sir.

Then you come to the other clause, clause 3 of the amending Bill, which amends section 4. It really reproduces that section. Section 4 now contains only one clause. It has now been divided into two clauses. One of these is a reproduction of the existing clause, and the other is a similar clause in respect of the offence of criminal misconduct. So under section 4 you will now have wo sub-sections (1) and (2), both raising a similar presumption in the

case of these different categories of offences. And then, Sir, there is clause 3, which is not a new provision but only repeats the proviso which you find in the existing Act. That proviso is that although this presumption is raised against an accused person which places him under a serious handicap—that is an important proviso—the court may decline to draw such presumption if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn. Suppose a public servant is an officer drawing a thousand rupees a month, and it is proved that one rupee was paid. Of course it will not be regarded as sufficient to raise this unusual presumption. So that proviso is there, and that is now embodied in a separate clause.

SHRI J. R. KAPOOR (Uttar Pradesh) : If a bottle of whisky is offered ?

SHRI C. C. BISWAS : That depends upon the trying magistrate to decide—if he is very fond of whisky— what value to attach in such a case. (*Laughter.*)

Then, Sir, the next clause is clause 4 which replaces sub-section (4), as I have already said by a new provision. This clause 4 makes an amendment of section 5 of the Act and a new sub-section is substituted for sub-section (4) in these terms :

*1 The provisions of this section shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this section, be instituted against him."

I will explain what this means. As I pointed out when I was dealing with section 5 of the Act regarding the offence of criminal misconduct— in fact one of the clauses says this — this offence will be committed by a public servant if he "dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or else any

[Shri C C Biswas] other person so to do." This is very much akin to criminal breach of trust. The Punjab High Court, which is the only High Court which took this view held that this meant that so long as this Act remains in force, section 409 of the Indian Penal Code dealing with punishment of offences of criminal breach of trust remains suspended. In other words, the enactment of this provision in the Prevention of Corruption Act automatically suspends the operation of section 409 of the Indian Penal Code. Though that view has not been accepted by any other High Court, it was thought that opportunity should be taken of the present amending Bill to insert and express clause saying that provisions of this section of the Act, shall not be in lieu or in derogation of, but supplementary to, any provisions made in any other law for the time being in force.

SHRI M. VALIULLA (Mysore) : Does it mean that a public servant cannot be proceeded against for any offence under section 409 ?

SHRI C. C. BISWAS : No. You must decide whether he should be proceeded against under this Act or under section 409, I.P.C. You will see that under the Constitution no person can be tried more than once for the same offence.

SHRI M. VALIULLA : The Punjab High Court is right then.

SHRI C. C. BISWAS : It may or may not be, it is not necessary for me to express : an opinion on that. That is made very clear. "The provisions of this section shall be in addition, and not in derogation of, any other law for the time being in force...."

Lastly, Sir, I come to a minor matter. Section 6 of the Act says that if any proceeding is taken against a public servant for an offence under section 161 or 165- or 165A or for an offence of criminal misconduct, the previous sanction of the appropriate Government will have to be obtained.'

Which will be the appropriate Government ?

Suppose an offence is committed by an officer, and before he is arrested, he is transferred elsewhere

to another State. Which is to be the appropriate authority to give the necessary sanction ? For this purpose,

it has been made clear that "Where for any reason whatever any doubt arises whether the previous sanction as required under subsection (1) should be given by the Central or State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed." This is a simple provision. That is all, Sir, that I have got to say.

MR. DEPUTY CHAIRMAN :

Motion moved :

That the Bill further to amend the Prevention of Corruption Act, 1947, as passed by the House of the People, be taken into consideration.

SHRI B. GUPTA (West Bengal) : Mr. Deputy Chairman, Sir, this is a measure which has been based, as the Minister has said, on the recommendations of the Tek Chand Committee. Sir, I am not much enamoured of this Committee's recommendations for the simple reason that the Committee's recommendations are again based on certain terms of reference that were made by the Government of the time. These terms of reference did not include any scope for suggesting any basic change in the policy pursued by the Government in the matter of fighting corruption. The investigation should be carried on with a view to finding out the reasons as to why preventive measures against corruption did not produce the desired results. But that was not the approach. For instance, Sir, it is said in one of the terms of reference, "To assess the amount of success achieved by the Special Police Establishment in combating corruption and to make recommendations regarding the continuance, strengthening, curtailment of the Special Police Establishment." Now, Sir, there is no critical attitude in.

this whole business. What the Government should really have called upon this Committee to examine was as to why the measures that had been earlier passed did not succeed in checking corruption. That should have been one of the terms of reference. Had it been so, it would have been open to the Committee to go into the reasons for the failure of those measures and find out the reasons why corruption still existed despite certain enactments by the Government. Again, Sir, the Committee itself says that it had to work under certain limitations:

"The Committee was not required to hold a general enquiry into what may be described as the problem of corruption in the public services or among people who have financial dealings with the Central Government and to suggest methods for the eradication of such corruption. Such an enquiry would have been of a very comprehensive character, whereas the task that was actually entrusted to us was of a much more specific and concrete nature within well-denned limitations."

This is an admission of the Committee itself. It had to work under certain limitations and handicaps, and naturally from a Committee of this sort, functioning under" so many impediments and handicaps, one cannot expect either a comprehensive approach or a radical change in the policy. In the Bill that we have now got before us, there is no basic change either. Some procedural changes have no doubt been suggested, and in so far as the Government is willing to stamp out corruption from the public life of the country, the people would no doubt extend their support to them. But the issue is, how are we going to do that? What should be our methods for fulfilling this task? If we take up only the procedural side, leaving aside the basic questions, there will not* be much good coming from such measures. That has been our experience in the past and I am afraid that will be our experience in the future too. Now, mention has been made about the existing preventive measures in the Code of Criminal Procedure and the Indian, Penal Code. Undoubtedly there are certain provisions in these enactments

for checking corruption, but they have not succeeded because they were not comprehensive enough. They did not take into account the manner in which corruption is practised in the present day public life of the country. For instance, neither in these previous enactments nor in the present Bill is there any provision which enables the Government to fight corruption of this sort: Suppose a certain Minister is very friendly with some businessman. We suddenly find that this particular Minister—I am speaking from experience, only I am not mentioning the name—comes down one day upon the trade union movement, the working class movement and suppresses it, and simultaneously we find that the son of that particular Minister finds a very lucrative job in one of the business firms which had been involved previously in an industrial union dispute. Now, there is nothing in the law to get at that Minister or his son or for that matter, anybody. He had not received any valuable thing. The only thing is that his son has got a job which normally the son can get if he is worth it. When such a kind of thing happens, I don't say in all cases the presumption should be that there has been some kind of collusion between the person who gave employment and the Minister's son or the Minister concerned but if there are allegations to the effect that the particular Minister has been pleased or obliged by that party concerned, even then there is nothing in this law to set the justice in motion. That becomes very difficult. Investigations may take place but these investigations usually, as has been our unfortunate experience, don't produce any tangible result. Similarly it has been found that certain officers and even Ministers have got their very energetic and very active wives and they get all kinds of presentations. There is nothing necessarily wrong if somebody makes presents. There is nothing to prevent that sort of thing; but when these presentations flow in and when you find these very people prosperous on those presentations, then

[Shri B. Gupta.]

the presumption in such cases should be that some kind of illegal gratification has taken place.' Now, for instance, all kinds of explanations are found with a view to frustrating the investigations in such matters. It has been our experience during the last 5 years that some people, - some Congressmen placed in high position—I am not talking of all Congressmen—I am talking of some Congressmen who have been in the prison in the thirties suddenly becoming rich Luck, undoubtedly, has been propitious to them when they mou.ited the ministerial *gaddi* but not to the extent to justify suddenly becoming as prosperous as they are today. For instance, when I see a Minister getting normally Rs. 750 as salary, runs a big car and goes to a party and he has all kinds of things, then the natural presumption should be that that particular Minister has been earning from some other sources. What are those sources and how can we get at them ? These things are not properly taken into account by the Tek Chand Committee. Had it been so, j ways would have been found for getting at those deals. Therefore, I say it is not merely a question of passing a legislation. It is a question of reorientating the entire approach. It is a question of waking up to the realities of corruption—and corruption has become an epidemic in our administration—so that you can effectively fight them. Unless this is done, this measure cannot succeed in achieving the results that are promised. There are all kinds of officers—as I always say some good, some bad— but when some officers or even some Ministers indulge in corruption at a very top level, the whole administration becomes poisonous—it becomes corrupt and in that situation honest people have to live on their mercy and they cannot do much and that is again the experience of honest officers themselves. I don't know how many honest officers had been promoted to positions of honour and I don't know how they are being treated, but I do know that dishonest Ministers, defeated in the elections, have been placed

back in the Ministries despite the virtual assurances of the hon. Primi Minister and the Leader of the Congres Party that such people would not *bt* placed in such position or ever given nomination for election to any Upper House. Now, I say this only to emphasise the point that when you make those people, against whom there are certain allegations of boundless corruption, Ministers, you forfeit your right to fight corruption. You turn the people away from you when the people went to the extent of extending their hand of co-opsration in stamping out corruption from public life. When you place people who had been defeated, because of the allegations of corruption, in the elections, into the ministerial position, you are not only committing a fraud on public life, you are putting a premium on corruption itself. That is happening in some part of India and I say unless this is put a stop to, the corruption cannot be fought in our society in the public life today. Therefore certain code of public behaviour has to be determined. Certain public standards have to be fixed and it will be the task of the Government— come what may—to stick to those standards, moral standards and public standards so that the people are encouraged, so that anyone who is not above board has no chance of placing himself in high position. This is very important.

Now, in this Bill—I can quite appreciate— Government wants to make it a little difficult for the corrupt official to get away. I appreciate their point of view but your machinery is there. The investigation part of it is very important. Before I pass on to that, I would like to mention toere the position in France. In France the presumption is always against the accused, it is not in his favour. In that system the presumption is this that 'you have committed the crime unless you can prove to the contrary'. There corruption exists. The presumption of that sort in the French law has not eliminated corruption from public life because the Government

there is corrupt and therefore corruption exists and there is no getting out of it because of certain provisions in the French Penal Code or I should say French Civil Code. Sir, just by shifting the onus from one person to another, you cannot eliminate corruption. It may help you provided you have developed the other approach, you have changed your old ways, you have taken up yourself the task of ruthlessly fighting out corruption at very high levels where the corruption is really bred in our public life. Nothing of this sort is promised in this Bill. Therefore this Bill is likely to be defeated in practice although the intentions have been expressed here. I don't dispute these intentions—I welcome the intentions whenever they are expressed if they are good intentions but in public life it is not the intention that matters. What matters is practice and practice alone. You are judged not by the intentions you express but by the deeds you perform. Therefore in the performances of duties, I am afraid the object of this Bill—and I take it that the object is good—will be defeated and you cannot help it for the simple reason that the machinery which is there and the manner in which it will function would not be congenial to such measures.

Now, therefore, my submission will be this, that the Government should take, after getting this measure passed, certain steps. For instance, they should immediately set up some sort of a Committee which would investigate into all charges brought up against Ministers and big officials. Let these charges be examined, let the public know that here is a Government which has awakened to certain social dangers. Address yourself to the task of allowing searching and shifting enquiries into the allegations that have been brought up by the public. Nothing of that sort has yet been done and it is time that steps in this direction were taken.

Secondly, Sir, in fighting corruption, you have to take the co-operation of the ordinary employees, government's em-

ployees and men in the lower rungs of the ladder. This is essential. These people and their families suffer because of the corruption in public life. Not only because of their general sense of public duty but also because of their own painful experiences, they will be quite willing to extend their co-operation to the government officials who are interested in fighting corruption. Therefore it is very essential that the people in the junior services, the clerks and others, the office assistants and those who actually man the departmental offices and through whose labour these government departments are running, should be taken into full confidence and given a part to play in this scheme of fighting out corruption. I know there are many unions which are prepared to help Government in stamping out corruption. But what do we see? We see that instead of extending their trust to them, instead of appreciating their gesture, Government take every opportunity to fight these unions, to eliminate these unions, to muzzle these unions. It means that you are not even creating confidence in those very people who sit in these government offices. It is so essential that Government should encourage the formation of trade unions among these people in the various government establishments and Government should seek their co-operation with a view to fighting corruption. These are the people who will be able to tell you how corruption should be fought and stamped out. They know where to look for it, where to locate it. Otherwise you cannot detect this corruption. They are the persons very close to these festering cesspools of corruption and so they can locate the spots and help the Government to put their searchlight on them and get rid of the evil in no time. Therefore, I say it is very essential that you take the co-operation of these persons.

And then the public also should be taken into account.

{Time bell rings.}

I hear the bell, Sir, and I do not know if at this stage of discussion the time could be so restricted.

Mr. DEPUTY CHAIRMAN : You have taken more than twenty minutes.

SHRI B. GUPTA : I shall be very brief. I submit that the co-operation of the public also should be secured in this fight against corruption. That is very important. Your Special Establishment Department—if you want to have it, by all means have that department. But you should have there people who are inspired by a sense of public duty. Do not just put officers there who are drawn from the old I. P. S. or I. C. S. The old I. C. S. and I. P. S.— we know of what stuff they are made. We have known them for years and I know that many of them are not fit for anything, and it is unfortunate that some of them are being fed by the public exchequer. Those who are honest and efficient, have them, if you like, but I doubt if any of them are honest or efficient. But put more people on the work. The man may be anything, he may be a public man. Catch hold of him and ask him to assist you either honorarily or as a paid employee of the Special Establishment Branch so that you may have people who are really inspired by some public ideals for fighting corruption. That machinery itself needs to be overhauled. The old Augean's Stable should be cleaned before starting the fight against corruption. That is most important. And then start anti-corruption committees in towns and villages, in factories and farms, wherever people live and function. If these committees are started with the blessings of all parties, then they will be real citadels of anti-corruption drive in the country in different spheres of public life. In that way you will be able to fight corruption. Let the people be drawn into this big battle against corruption. The battle has to be fought ruthlessly and bitterly. Indeed the mass of the people must be drawn into this battle and they must carry on the battle not only against the small man, but also against people who are occupying ministerial positions, high-placed dignitaries, and thus put the fear of God in the minds of the Ministers and those high officials holding high positions in the Secretariat, people who are helping

corruption every moment of their life. Only in that way you will be able to stamp out this evil of corruption that is corroding our society and that has cast a blight on public life and brought so much misery and suffering to our people. Therefore, I would make this appeal to the hon. Law Minister. Let him make the laws that he likes. Change them if you want. But change your heart also, and see the new world where corruption is being fought—China—the New China—and other countries. Only then you will be able to march victorious to the cherished goal that you have set before yourself ; otherwise not.

SHRI ABID ALI (Bombay) : Sir, we are now accustomed to hear this oratory every day. There is only one phase of it, one set of arguments and systematic abuse. We do not hear anything new from these friends. Much has been said about the Ministers whom my friends there call dishonest. Still nobody has been able to prove the crime about which they have been shouting so much. My hon. friend there said that Jawaharlalji had announced that no dishonest man would have Congress ticket. Our President has seen to it that no one who was dishonest got the Congress ticket. But there are people whose habit it has become to call everybody dishonest. Jawaharlalji has been called dishonest. Who has not been called dishonest by our friends on the other side of the House ? If China and Russia ' have the monopoly of honesty why don't our friends go over to Russia or China, since this country has become dishonest according to them.

SHRI S. N. MAZUMDAR (West Bengal) : People of no country

SHRI ABID ALI : I am not yielding, Sir. We cannot help people who see everything black here. Certainly they have no right to come and abuse everyday and speak about things on which they have no right to speak. They say that only when Ministers are honest can the others be honest. On previous occasions also, during the discussion of the question, they have been making all sorts of charges and saying that there was dishonesty all round in the country. They want us to believe that the people

at the top are dishonest and therefore the people at the bottom also can be dishonest. They are men out to create chaos in the country. That is their only business. They want to achieve their objective by creating chaotic conditions in the country. They do not mind whether there is progress in the country or whether the country is retarding. They know they cannot achieve their object by the constitutional procedure. They say that the Ministers who were defeated were dishonest. May I ask our friends how many of their party men were defeated in the last elections and were they all dishonest ? They did not come as a majority party and.....

SHRI B. V. KAKKILAYA (Madras) : But those who were defeated were not Ministers and neither were made Governors after defeat.

SHRI ABID ALI : I am not yielding, Sir.

MR. DEPUTY CHAIRMAN : Order, order.

SHRI ABID ALI : The majority of the electors did not think that the nominees of the other party were honest. Is that the position ? Then there are many more dishonest persons among their nominees than in others.

SHRI S. N. MAZUMDAR : I won't..... -

12 noon.

MR. DEPUTY CHAIRMAN : Order, order.

SHRI S. N. MAZUMDAR : I won't interrupt him, Sir, if the Chair would only give me sufficient time to reply to his arguments.

SHRI ABID ALI : I am not yielding. I did not interrupt my friends when they were talking things that they should not.

SHRI S. N. MAZUMDAR: Sir..

MR. DEPUTY CHAIRMAN : Order,, order. There were no disturbances when Members spoke. , Please do not interrupt the speaker;

SHRI ABID ALI : Thank you, Sir. I was submitting that if there is some dishonesty, certainly we are anxious to fight it. But whenever there is any attempt made in this direction there is obstruction from our friends who shout that they want honesty in the Administration.

Their main object is that there should be trouble here, there should be dishonesty everywhere, and there should be corruption everywhere. I was thinking, Sir, what to say in reply to my friend who has spoken for such a long time and I was trying to take down notes from his speech. But, from beginning to end, there was nothing except that there is dishonesty, there is corruption, people at the top are dishonest and then how do you expect those who are in the Administration, in the clerical and in the lower grades, to be honest? Excepting, this, there was nothing. There was a repetition of the same old arguments.

SHRI J. R. KAPOOR : Corruption mania.

SHRI ABID ALI : If, as they claim, they are honest, then let us all combine together and oust whoever is dishonest. Simply by their shouting that such and such Minister is dishonest, such and such individual is dishonest or the whole Congress and the whole of our Cabinet is dishonest, we do not become dishonest. Sir, they were talking about one Minister who had to resign in the United Kingdom because there were suspicions about him that because of his negligence Budget information leaked out. Yes, that is true, but there honesty amongst Opposition is of a better standard. They talk about things that they know and they are serious about it. Here it is not of that kind. Sir, everybody is dishonest, everybody is being classified as bad and there is no one on our side up to this time who has not been abused by them ; there is no good act which has been done by us; all of us are bad. If it is so, then we are all bad and they alone are good. Then we have nothing common between this and the other. That is the way they want the country to go? We want the country

[Shri Abid Ali.] to go the way we have been trying—they try to make it difficult—to put the evil out of it and do our best. Whether we are doing our best under the circumstances and or anybody else could do better than what we are doing is for the public to judge. Sir, I can say without fear of contradiction that the public at large is confident that all that is best is being done and nobody" else could do better than what we are doing and that is why the electorate has again placed full confidence in the Congress Party and our Government is here. I would urge upon these gentlemen, Sir, in conclusion that instead of snouting this way, instead of trying to tell the ordinary man that because there is a person sitting at the top who is dishonest you have also the right to be dishonest and telling the people that their economics are bad. Therefore they are entitled to be dishonest and also trying to tell us that because we are bad and unable to improve the economy of the country, people have right to misbehave—no, Sir, it is not be--cause a man is poor that he misbehaves. I give you an example. Some days ago a taxi driver found Rs. 57,000 in cash in his car. He went straight to the Union and told the Union officials 'I have got 57,000 rupees. Please find out the owner and give it to him'. After a few days another taxi driver got Rs. 7,000. He goes to the police station and delivers the money. Then, withir the same week, a taxi owner,—the man who owns a taxi, found an umbrella of a passenger. He took it home. Here are two taxi drivers who found Rs. 57,000 and Rs 7,000 and returned to the owners and here also is the owner of the taxi who found an umbrella and took it home. It is the mentality -one wants to adopt to guide him the way one wants to live. It is not that I have got no money therefore, I become dishonest or I can be honest only if I have money. It has always been the pride of the poor man of India to be honest. He will never try to deceive or be dishonest whatever may be his circumstances. We want to maintain it and we want to make it better. Here these gentlemen want to tell the people that because they are poor, they have got right to be dishonest. The country

cannot be made that way. I have been told enough of Russia. I have toured round most part of the world, but I could not go to Russia simply because I am not permitted to go there. People talk much about it and I wanted to see what is happening thsre. But, it is such a wonderful country that its wonders may be such that people like us will not be permitted even to see that wonder simply because I am not a Communist or I am not their sympathiser. People here come and tell us many things about Russia and many things about what has been done in China. In China we are told that the greatest revolution has been set in and that men and women have the same dress. I saw the Chinese 26 years ago and even then I saw both men and women were having one dress. Those who have gone to Calcutta and have been living there have seen Chinese men and women putting on the same dress. And here somebody comes to tell us that there is a revolution and that that revolution has done this or that.

They were telling us about trade unions which these friends are organising or managing. They are simply manned by the persons of the party who do not want that those who believe in democracy, in systematic working of the trade union organisations should take it on. Workers are being beaten, harassed, stoned and locked inside the union offices. I am also a trade union worker. I know what these friends are doing in the name of the trade union organisation.

(*Shri M. Manjuran rose to speak.*)

MR. DEPUTY CHAIRMAN :
Order, order.

SHRI ABID ALI : We want democracy ; we want individual freedom ; we want freedom of speech; we want all that democracy stands for. But, we should talk to the persons in the language they understand. If I want to convince a man of what is in the Quran, I cannot talk to him in Arabic if he does not understand it. I have to talk to him in the language which he understands. If I want to talk to a person in Sanskrit, who does not understand any of the Indian, languages, there is no meaning

in it. Therefore, I have been requesting Government to appreciate what these friends are doing or talking. They are not coming here for parliamentary activities. They are simply repeating the same speech over and over again. From the time we had debate on the Address of Rajen Babu up to this time, the same talk and the same speech, has been repeated again and again. No change absolutely. Their object is different. I hope Government will take note of it. I hope Government will understand properly and appreciate and take appropriate action. Of course, that does not.....

Mr. DEPUTY CHAIRMAN : Please speak on the Bill.

SHRI ABID ALI : They always go round within the same circle. I would request my friends to become real Indians. One speaker the other day from the opposite benches speaking on the same corruption, was telling that they are prepared to co-operate. I request them to be earnest about what they say and mean what they say. If they are really anxious to co-operate to make the nation healthier and happier, join hands with us. It is very necessary to eradicate this evil of corruption and Government is anxious, we are anxious and if they are also anxious then certainly we will welcome their co-operation. Otherwise, our caravan will go ahead without them and in spite of their opposition. Whatever they are doing elsewhere will not be for the good either of their party, or the nation or the poor for whom they shout so much about and it will not improve their status. It is not good to make anybody dishonest whatever may be the circumstances. I am thirsty, I want water but will not drink urine. I am honest ; I want to remain honest. I will not be dishonest whatever may be the circumstances. That is the one thing according to which we should mould our lives. I support the Bill.

PKOF.OINKAR (Bihar):

प्रोफेसर बिनकर (बिहार) : श्रीमन्, भ्रष्टाचार को लेकर देश में एक तरह का कुहासा

छा गया है और 'जिनको इस परिस्थिति से फायदा उठा कर अपनी ताकत बढ़ानी है या सत्ता के आसन पर बैठे हुए पार्टी को अपदस्थ करने की कोशिश करनी है, उनके लिये यह बहुत अच्छा मौका है। मगर, जो लोग सरकार चलाते हैं, जिनके हाथ में अधिकार है, वे चिल्ला नहीं सकते, सभाओं के मंच से गरज नहीं सकते, उनके हाथ में कानून की रूपरेखा बदलने का अधिकार है और कानून की रूपरेखा को बदले बिना भ्रष्टाचार को हम ठीक से दबा नहीं सकते हैं। इसलिये मेरा ख्याल है कि सरकार पर हम यह अपराध नहीं लगा सकते कि भ्रष्टाचार की ओर से वह आंख मूंदे हुए है अथवा भ्रष्टाचार को रोकने की उसने कोशिश नहीं की। टेकचन्द-कमेटी की रचना, पीनल कोड (Penal Code) या क्रिमिनल प्रोसीचर कोड (Criminal Procedure Code) में सुधार लाना अथवा इस भ्रष्टाचार कानून में संशोधन लाना, ये जितनी भी योजनाएँ हैं, इनसे यह बात स्पष्ट प्रकट होती है कि सरकार भ्रष्टाचार से मोर्चा ले रही है, भ्रष्टाचार को रोकने को वह तैयार है। बल्कि इन कानूनों में जो सुधार लाये जा रहे हैं उन सुधारों से यह भी बात सामने आती है कि सरकार कुछ कड़ाई पर उतर रही है और मेरी आशा है कि सरकार को जहाँ भी कानूनी कठिनाई मालूम होगी वह उसे दूर करके भ्रष्टाचार को कड़ाई से रोकने की कोशिश करेगी।

असल में भ्रष्टाचार को हम उस आसानी से दूर नहीं कर सकते जिस आसानी से हम उसे रोकने की बातें किया करते हैं और न यही हो सकता है कि एक या दो वर्ष में देश का समस्त भ्रष्टाचार दूर हो जाये। इसका मूल मनुष्य की इस भावना में चला गया है कि दूसरों के संकट से धन उत्पन्न करना कोई पाप नहीं है। बड़े आश्चर्य की बात है कि युद्ध के पहले अफसरों की जिस श्रेणी पर कोई भी आदमी अंगुली नहीं उठाता था, उस श्रेणी के बारे में भी

[Prof. Dinkar].

अब पचासों तरह की बातें सुनी जाती हैं। यह भी कहा जाता है कि इन अफसरों को बर्बाद करने में उन लोगों का भी हाथ है जो लोग परमिट के व्यापार की सुविधा देख कर अपने पुराने धंधों को छोड़ छोड़ कर नये व्यापार में आते जा रहे हैं। एक तरह से देखने पर लगता है कि ऐसे ही लोग इस पाप को बढ़ावा दे रहे हैं और यह भी सच है कि सिर्फ कानून की मदद से हम इस पाप की जड़ नहीं काट सकते। इसके लिये जनता में नैतिक भावना की जाग्रति चाहिये। सारा समाज इस पाप से प्रसित हो गया है और चारों ओर पाप का ऐसा घमासान है कि मेरे एक कवि मित्र ने आजिज हो कर कह दिया :

“मुल्क भर को कंद कर ले किसके बस की बात है खैर से सब हैं, नहीं दो चार दस की बात है।”

I will translate it for you, Sir. The poet says "Who can afford to arrest the whole country and put it behind the prison bars. It is not a question which concerns two or ten people; the whole society is involved in it."

सबसे दुःख की बात तो यह है कि इस देश के हर चोर को एक चचा मिल जाता है और ये चचाजान ऐसे होते हैं जिनकी रसाई बहुत ऊंची जगहों तक होती है। पता नहीं कि जहां इनकी रसाई होती है वहां ये किस चाल से सफल होते हैं, मगर यह सच है कि चोरों की इनसे काफी रक्षा हो जाती है। और यह भी सच है कि आज इसी तरह की गलत उदारता से पीड़ित लोगों के कारण चोरों को प्रोत्साहन मिल रहा है। इस बात से इनकार नहीं किया जा सकता कि इसको रोकने के लिये भी कानून की जरूरत है। मगर कानून से शायद ये चचाजान रकने वाले नहीं हैं। यह तो समाज के शरीर में एक तरह का कैंसर है और इसका इलाज समाज को ही निकालना होगा और ऐसे इलाज के खोजने की जगह केवल पार्लियामेंट नहीं है, सिर्फ सरकारी अदालत नहीं है, उसकी असली जगह तो सारा

समाज है, जहां भयानक कुरीतियां फैली हुई हैं। हम क्या देखते हैं? चोरी से जो धन हो जाता है या घूस से जो आदमी पसा बना लेता है समाज उसकी भी कद्र करता है। असल चीज यह है कि आज देश की मनोवृत्ति धन की ओर जा पड़ी है। लेकिन यह लाइलाज रोग नहीं है। एक समय था जब मनुष्य मनुष्य को खाता था और जो आदमी दस आदमियों को खा चुका होता, उसके दर्शन के लिये दूर दूर के आदमी आते थे। आज यह बात नहीं है। आज जो आदमी को खाता है उसे हम पशु समझते हैं। इसी तरह एक दिन धनाशक्ति से भी मनुष्य मुक्त हो जायेगा। मगर मनुष्य को इस दिशा में ले चलने का उपाय नैतिक शिक्षा है, सरकार और अधिकारियों पर छींटा उछालना नहीं। उससे तो हमारी बेचैनी और अधीरता ही प्रकट होती है।

मैं समझता हूँ कि टेकचन्द-कमेटी ने जितनी सिफारिशों की हैं वे सारी सिफारिशों काम में लाने लायक थीं और सरकार ने जो भी सुधार किये हैं वे सारे सुधार ऐसे हैं जिनको करना ही चाहिये। मगर टेकचन्द-कमेटी की एक सिफारिश बड़ी जबरदस्त है, यद्यपि, जैसा कि पीनर कोड के सम्बन्ध में बोले हुए कुंवर साहू ने पहले दिन कहा था कि कमेटी ने उा गंशों में अपनी सिफारिश नहीं की जिन गंशों में उसे यह सिफारिश करनी चाहिये थी और वह सिफारिश यह है कि सरकार के विभाग भ्रष्टाचार विभाग के कामों में सहयोग नहीं करते। कई राज्यों की सरकारों ने एंटी करप्शन डिपार्टमेंट (anti-corruption department) खोल रखे हैं और सभी राज्य सरकारें चाहती हैं कि किसी प्रकार अपराधी लोगों को सजा दिलायें। लेकिन किसी भी राज्य में एंटी करप्शन डिपार्टमेंट को अन्य विभागों का पूरा सहयोग नहीं मिलता है। एक किस्सा तो मैं जानता हूँ, जहां अपराधी अफसर ५५ के करीब पहुंचा जा रहा था। जिस डिपार्टमेंट में वह था उस डिपार्टमेंट ने एंटी करप्शन विभाग से सहयोग नहीं किया और

उसने उस अपराधी अफसर को रिटायर (retire) करा दिया और बात खत्म हो गई। इसी प्रकार बिभागों के द्वारा सबूत दबा दिये जाते हैं अथवा उनके पेश करने में बहुत विलम्ब किया जाता है। नतीजा यह होता है कि अपराधी अफसर ही छूट जाते हैं। इससे दूसरों की हिम्मत भी बढ़ जाती है।

कभी कभी तो मुझको ऐसा लगता है कि हम लोग अगर कटिबद्ध होकर भ्रष्टाचार को रोकने को तैयार हो जायें तो वह कानून से भी रुक सकता है। भ्रष्टाचार को रोकने के लिये जनमत को जागृत करना अपनी जगह पर आवश्यक और ठीक है। लेकिन जहां तक कानूनी अमल का सवाल है, मेरा ख्याल है कि कड़े कानूनों से भी हालत सुधर सकती है। मगर, यहां खेद का विषय यह है कि भ्रष्टाचार को रोकने का जो सबसे बड़ा यंत्र हमारे पास है, वही बेकार हो रहा है। हमारा तात्पर्य पुलिस से है। सबको पुलिस की निन्दा में रस आता है। विरोधी दल पुलिस की निन्दा करता है। हम सरकार के पक्ष वाले लोग भी पुलिस की निन्दा करते हैं और खुद सरकार के सदस्य भी पुलिस का पक्ष नहीं ले सकते। मगर तब भी यह ठीक है कि पुलिस संगठन के बिना देश में कोई भी सरकार चलाई नहीं जा सकती। हैरत की बात है कि हम जिस पुलिस की निन्दा करते हैं उसी को लेकर राज-काज भी चला रहे हैं। यह विरोधी बात है और इसका अर्थ किया जाना चाहिये।

इस स्थिति को बदलने का तरीका यह है कि हम पुलिस संगठन में तुरन्त आमूल सुधार करें और उसे उस रूप में लायें जिस रूप में पुलिस का आदमी हमारा विश्वास भाजन बन जाये। जिसका आप विश्वास करेंगे वह सदैव आपको धोखा नहीं देगा। मनुष्य के कुछ मानवीय गुण भी होते हैं और इन गुणों का विश्वास किये बिना कोई काम नहीं चल सकता। मैं बहुत जोर देकर कहना चाहता हूँ कि अगर सरकार देश से भ्रष्टा-

चार को मिटाना चाहती है तो वह पुलिस का आमूल सुधार करे। उसे और भी पावर (power) दे, ऐसी पावर कि एक कांस्टेबल (constable) की रिपोर्ट भी सब मानी जाय। अभी तो हम पुलिस के बड़े से बड़े अफसरों की रिपोर्ट को भी अदालत में सबूत नहीं मानते हैं।

पुलिस चोरों को पकड़ती जरूर है लेकिन पुलिस को जिस रूप में हम रखे हुए हैं उसके कारण अदालत में वह कोई काम नहीं कर सकती। मेरा ऐसा ख्याल है कि पुलिस के सम्बन्ध में हम अपनी राय को मूल रूप से बदलना चाहिये। कानून के अन्दर उसकी जो डिसेबिलिटीज (disabilities) हैं, अयोग्यतायें और अक्षमतायें हैं, उन्हें दूर किये बिना पुलिस से देश और समाज को वह लाभ नहीं पहुंचेगा जिस लाभ के लिये पुलिस रखी जाती है। मुझे खुशी है कि वर्तमान बिल में उसे कुछ अतिरिक्त अधिकार दिये गये हैं। बहुत अच्छा हो कि भारत सरकार अपने स्पेशल पुलिस इस्टेब्लिशमेंट (Special Police Establishment) में पुलिस-सुधार का प्रयोग आरम्भ कर दे। इसी एक्सपेरिमेंट (experiment) से यह पता चल जायेगा कि पुलिस का आमूल सुधार किस ढंग से किया जा सकता है।

असल बात यह है कि अगर मनुष्य के हृदय में यह विश्वास जन जाय कि हम नुस्हारी दान का विश्वास करते हैं तो वह आपको अधिक धोखा नहीं देगा। जो धोखा दे उसको आप कड़ी से कड़ी सजा दीजिये। सरकार बहुत बड़ी शक्ति होती है। वह सब कुछ कर सकती है, अगर उसके भीतर संकल्प का अभाव नहीं है। मेरा ख्याल है कि सरकार यह बहाना नहीं कर सकती कि कानून बनाने पर भी चोर भाग जाते हैं। कानून कानून में भेद होता है।

एक बात कहता हूँ। जब चुनाव होने लगे तो सारे देश में आशंका थी कि शायद इस चुनाव में बड़ी खून-खराबी होगी, बड़ी मारपीट होगी,

[Prof. Dinkar.]

बड़ी अशान्ति मचेगी। लेकिन सरकार ने संकल्प कर लिया था कि चुनाव पूरी शान्ति से होना आवश्यक है इसलिये उसने ऐसा कानून बनाया जिससे स्थिति पर सर्वत्र उसका काबू रहा। वह कानून था पीपुल्स रिप्रेजेंटेशन ऐक्ट (Peoples Representation Act)। इस कानून की इतनी बड़ी कामयाबी का राज बहुत छोटा था। और वह राज यह था कि बूथ (booth) के अफसर को सारे अधिकार थे। सरकार ने एक शिक्षक को, एक क्लर्क (clerk) को प्रिजाइडिंग आफिसर (presiding officer) बना दिया और उसको यह अधिकार दे दिया कि १०० गज के भीतर तुम बादशाह हो, तुम्हारे जजमेंट (judgment) के खिलाफ कोई अपील नहीं होगी। प्रिजाइडिंग आफिसर को जब इतना अधिकार दे दिया गया तब अपराध करने वाले डर गये कि हम तुरन्त सजा पायेंगे। मगर, पुलिस का इसके ठीक विपरीत हाल है। हम आरम्भ से ही यह मान कर चलते हैं कि पुलिस का हर आदमी कानून की नजर में बेईमान है। अगर डिस्ट्रिक्ट मैजिस्ट्रेट (district magistrate) कनफेशन (confession) लिखे और यह साबित कर दिया जाय कि पुलिस का कोई आदमी वहाँ खड़ा था तो वह कनफेशन सवूत में नहीं लिया जाता। अगर कानून पुलिस को इबना खराब मानता है तो फिर पुलिस के बिना राज्य चलाने की योजना पर विचार किया जाना चाहिये।

करप्शन (corruption) रोकने के लिये बहुत ही जरूरी है कि हम अपनी पुलिस का संगठन करें, पुलिस को अधिकार दें और पुलिस के मन से यह भावना हटा दें कि हम उनको चोर समझते हैं। और यह महान् प्रयोग स्पेशल पुलिस इस्टेब्लिशमेंट से आरम्भ किया जाना चाहिये।

न शब्दों के साथ मैं इस बिल का समर्थन करता हूँ और साथ ही यह भी चाहता हूँ कि

सरकार सिर्फ कानून के भरोसे ही नहीं रहे। जैसा कि उस दिन शायद गवर्नमेंट की ओर से कहा गया था कि टंकचन्द-कमेटी ने जो यह बात कही है कि दूसरे विभाग सहयोग नहीं करते हैं उसके लिये सभी विभागों को वाजिब सरकुलर (circular) भेजा जायेगा। सिर्फ सरकुलर से क्या होना है? असर तब पैदा होगा जब सरकार भ्रष्टाचार के मामलों में भयानक रुख अख्तियार करे, उग्र और कठोर हो जाय। भ्रष्टाचार से अधिक भयानक रोग इस देश को दूसरा नहीं है। अगर यह रोग नहीं रुका तो एक दिन यह देश इसी पाप के समुद्र में डूब जायेगा। इसलिये मैं कहता हूँ, नमी छोड़ कर सूखी से काम लीजिये।

‘कसीदे से न चलता है, न ये दोहे से चलता है, समझ लो खूब कारे सलतनत लोहे से चलता है।’

पहला कसूर भी माफ नहीं होगा, सरकार को इस नीति पर उतर आना चाहिये। जो इस तरह का कसूर करने वाला हो, जो भ्रष्टाचार को फैलाने वाला हो, चाहे वह बड़ा अफसर हो या कोई और उसका पहला कसूर भी माफ न किया जाय, तो इसका नतीजा यह होगा कि लोग डर जायेंगे। जो कानून का रास्ता है वह सुगम हो जायेगा और पुलिस की मदद से तथा सरकार की कड़ी नीति से इन भ्रष्टाचारों का अन्त किया जा सकेगा। लेकिन यह याद रखने की बात है कि कानून की कड़ाई, पुलिस के सुधार तथा सरकार की कठोरता के साथ हमें जनमत को शिक्षित करते जाना चाहिये।

[For English translation, see Appendix II, Annexure No. 64.]

SHRI RAJAGOPAL NAIDU : Mr. Deputy Chairman, it is unfortunate that the various parties in this House in their exchange of words had forgotten the real purpose for which this Act has been brought into effect. I went carefully through the provisions of this Bill and the recommendations

of the Tek Chand Committee's Report vis-a-vis the Criminal Law Amendment Bill which was passed into law a few days back, and which probably is awaiting the President's approval. May I point out to the Law Minister that in the Tek Chand Committee's Report, nowhere has the Committee recommended that the onus of proof in the cases of bribe-givers also should be placed on the accused? That is my first contention. It is no doubt proper that in cases that come under section 5(2) of the Prevention of Corruption Act the onus should be cast upon the accused. For example, there are certain reasons which are elaborately given in the Tek Chand Committee's Report itself. Section 5 authorises the raising of an adverse presumption if it is proved that a public servant is in possession of disproportionate pecuniary resources, and the onus of satisfactorily accounting for the possession of such resources is cast upon the accused. It is certainly reasonable. If a public servant is in possession of disproportionate pecuniary resources, it will be natural that the onus of proof should be cast upon the accused to prove that he is honest. But if this kind of proof is to be cast upon the bribe-giver also, it would certainly be a hardship. It is not the recommendation of the Tek Chand Committee that in the case of bribe-givers also the onus of proof should be cast upon the accused. It is not there in the report. In these circumstances I would earnestly suggest to the Law Minister that clause 3 should not find a place at all in the Act. It will certainly work great hardship.

The second suggestion which I wish to make is this. The practice hitherto was that the Deputy Superintendent of Police was authorised to investigate into the offences. But I find that a certain exception has been made in the Bill, and even Inspectors of Police are to be empowered to take up the investigation of these offences without the order of the magistrate and make a report to a magistrate of the first class if there is a likelihood of the evidence being lost due

to delay. I quite agree, but I would ask whether such extraordinary powers to investigate even without the previous approval of a first class magistrate should be given to an Inspector of Police. We know what these officers are. I do not want to say much against these officers. But my only suggestion is that these extraordinary powers should be given to officers of gazetted rank and not to officers of the rank of Inspector of Police.

Then, Sir, I find on pages 12 and 13 of the Tek Chand Committee's Report certain things are mentioned! Paragraphs 33 and 34 deal with want of co-operation on the part of Ministries and Departments of the Government of India. Paragraph 33 reads :

" We regret to observe that we came across certain instances where certain Ministries and Departments of the Government of India failed to extend their fullest co-operation to the staff of the Special Police Establishment in their investigation. This has taken various forms, such as active or passive obstruction in the securing of the relevant documents by the Special Police Establishment, withholding of witnesses or other information on one plea or another, etc. Such instances are not due to any deliberate official policy, and the cause has usually been inadequate appreciation by individual officers of the status and objective of the Special Police Establishment."

Again, in paragraph 34, they say :

" In pursuing the question of delay in the completion of investigations we came across some instances where the Department or Ministry concerned had been extraordinarily dilatory" in according concurrence in the issue of sanction for prosecuting officers serving under them. We consider such delays to be undesirable from every point of view and special efforts should be made by all Ministries to avoid such delays. We suggest that the Ministry of Home Affairs issue a circular to all Ministries drawing attention to the importance of urgent disposal of these references."

Action has certainly been taken on the Tek Chand Committee's Report. I do not know whether the Ministry of Home Affairs has issued a circular drawing attention to this important recommendation that has been made, by the Committee. If it has been done, I request the hon. Minister to take this House into confidence and place a copy of the circular on the Table so that we also may be aware of the

I Shri Rajagopal Naidu.] instructions that have been issued by the Home Ministry to the various Ministries, j

Another suggestion that I would like to make is that I would like to bring in the word "favouritism" into the definition of "corruption". Corruption does not mean only the giving and taking of money. Favouritism is also in some way or other some form of corruption. Instances are not wanting. I make bold to state in this House that our High Commissioners—I have my own experience, when I had been to another country—are having private secretaries and office managers—making it their family affair. The sons-in-law, the daughters-in-law and others are there as their private secretaries and office managers. I am saying it out of my experience. I had seen it in the case of one High Commissioner's office. Instances are also not wanting where in the highest court of justice sons practise before their fathers. There are very many cases in the High Courts. These instances should also be eliminated and some law should be introduced that if the father is sitting as Judge in the High Court or in any other court, the son should not practise before him. Not only that, Sir, I have actually seen very junior advocates, who simply because they happen to be the sons-in-law or sons of the sitting High Court Judges, are having lucrative practice in the High Courts. I find there is a sort of provision in the Co-operative Societies Act of Madras that—the degree of relationship is given in the Act— if the President is there, his son or son-in-law, sister's son and so on and so forth should not hold employment in the Society. If the father is there as a Director, his son cannot be employed there or allowed to hold an office as a clerk or some such thing. I feel, Sir, that it is very urgent that some sort of legislation should be brought forward so that if the father is there as a judicial officer, his son should not be allowed to practise or his son-in-law should not be allowed to practise and if

in the case of a High Commissioner's office if the father is there, the son or the son-in-law should not be employed in that office or the daughter-in-law should not be there in the office as Manager or some such thing. There are various other instances, Sir. That is why I had said that this word "favouritism" also should be included in defining the word 'Corruption'.

And lastly, Sir, I would say that a certain amount of co-operation is also-required from this part of the House and I am sure that the Members of this House and also of the various legislatures in the States should come forward and help the Government in seeing that this corruption is rooted out.

And another point that I would like to make is that this Bill i.e., the Prevention of Corruption (Second Amendment) Bill which is now being brought forward is not only giving effect to the various recommendations of the Tek Chand Committee but the main object, I may say, Sir, in bringing forward this Bill is to bring the law in accordance with the Criminal Law Amendment Act which in effect is based upon the recommendations of the Tek Chand Committee Report. In the Statement of Objects and Reasons in respect of this Bill it is mentioned that the amendments proposed in the Bill are based on the recommendations of the Committee. I may suggest, Sir, that that is not correct. Of course the Criminal Law Amendment Act is based on the recommendations of the Tek Chand Committee Report and this Bill is based upon section 165A which is now coming in to the Statute Book and this Prevention of Corruption Bill is only to bring section 165A also into the picture of these various offences. I may suggest, therefore, that clause 5 should not find a place in the Bill.

SHRI P. C. BHANJ DEO (Orissa) : Mr. Deputy Chairman, it is said that opposites meet in infinity and in view of the infinite deliberations that this House has been indulging in in this session I think, today, that infinity has taken a peep into this House itself because

although I stand up from the opposite ranks of the House today, this is one of those measures in which I feel that I am in unanimity with the Government in the uprooting of corruption which is the bounden duty and interest of every aspiring Indian citizen and patriot.

In this respect, I would like to put it to the House that in spite of the rather emotional attitude that some Members on this side of the House take on many matters, internally their intention is one with the Government from the point of view that we all sincerely want to cooperate with the Government in order to eradicate this basic evil in our midst, amongst our services, amongst the people and which is specially predominant in the police today. I think that this is a very salutary move on the part of the Government in this direction and it is also my request to them on the floor of the House to accept the very useful suggestions that previous speakers from this side of the House had made and also of the very useful suggestions of Prof. Dinkar which I had the pleasure to listen to and to agree with.

In this connection, Sir, I should probably bring to the notice of the House that I, a Member of this House, am a victim to the form of corruption that the law calls extortion on the part of the police forces in my part of India, Maytirbhanj. I would like to put the facts before this House on this floor, because they illustrate in some measure the difficulties from which the public is suffering today, in order that we are able to effectively co-operate with the Government to eradicate this basic evil.

During last January, when the general elections were on, I was very busy with the elections in my part of the country for my Party and taking advantage of my preoccupations a servant of mine stole a large sum of money, I think about 1,100 rupees, which was earmarked for election purposes. The police came to investigate the matter. The Assistant Sub-Inspector of the Police Station in my part of Orissa made a suggestion to me that he should go

in my own bus with all the facilities that I could afford him (regarding oil and other things) to the place where this thief was residing and recover the money. This was done. The whole money was recovered from the culprit intact. After that the same police man came to my house and suggested to me that if I were willing to give him Rs. 500 out of the money which had been recovered, he would expedite the case and see that I got back the money I had lost without delay. I refused. He pleaded with me that he had a daughter to marry off and that it was j

be a very expensive job as far as as concerned because in his caste he ia to give a lot of gold ornaments, and if I would be willing to give a gold necklace worth about Rs. 500 to his daughter plus Rs. 250 from the money recovered, in that case also he would be willing to help me. I refused to this ignominious proposal also. And I can tell you, Sir, that I was more than astounded because a few years before he or his kind could never even have dreamt of making such a proposal to me or to any member of my family. When I told him that I would not be a party to such a nefarious undertaking, he told me, "Do you know that the whole case is in the hands of the Police and they can make it or mar it, and if I do not get this money, we will delay the case? We will affect the procedure in such a way that you will not be able to recover one penny out of it." I have with me here two statements by two witnesses who have heard this bargaining on the part of the police officer with me on one occasion and the same on another occasion when he sent his own brother-in-law to collect this loot from me. The result of the theft case today is that, because I had refused to abet the police in this extortion by becoming a victim to them, it is still pending in court, although the crime happened in the month of January. Most of the witnesses probably have forgotten the various facts which led to the case by now.

THE LEADER OF THE COUNCIL
(SHRI N. GOPALASWAMI) : May I ask the hon. Member whether it is wise for him to mention this case

[Shri N. Gopalaswami.] here ? For one thing, the case is *sub judice*. For another thing, is it wise in his own interests, in the interest of bringing the person concerned, the offender according to him, to book, to give this version of the story in this House ?

SHRI P. C. BHANJ DEO : I am referring to this case because I want to point out to the House that the victims of such extortions are really left without any sort of protection.

SHRI N. GOPALASWAMI : There are courts and Governments. They are not without any protection.

SHRI P. C. BHANJ DEO : These courts and Governments have their hierarchy of officials who can suppress facts also.

SHRI C. C. BISWAS : The hon. Member can refer to any case in a general way without saying that this is a case which is now before a court.

MR. DEPUTY CHAIRMAN : The hon. Member cannot refer to any case which is *sub judice*. That is very clear in the rule. If he wants, he can give a copy of those papers to the hon. the Home Minister.

SHRI P. C. BHANJ DEO : Thank you, Sir. I really wanted to know what procedure I should follow. If I can give these papers to the hon. the Minister for Home Affairs.....

SHRI C. C. BISWAS : The Home Minister cannot interfere with pending proceedings.

SHRI P. C. BHANJ DEO : The legal position of the persons who become victims of such extortion, of such corrupt practices on the part of officials, is one of the chief reasons for this corruption that is going on in the country. It has increased to such a scale that it is the duty of every Member, in my opinion, to expose them ruthlessly and thus to help in rooting out corruption. Because the people concerned do not know what to do and to

whom to go to in such cases, they are made the innocent victims of such acts. My suggestion to the Government is that they should appoint poor men's lawyers in various parts of the country, as they have done in England and other civilised countries, so that these poor people who are victimised constantly by corrupt and irresponsible officials can take legal advice easily without being fleeced by lawyers. If a man in my position, as hon. Members can see does not know how to move in this matter so as to get out of the vicious circle in which he and his family find themselves today, how much more so does this apply to poor ignorant persons who are daily made the victims of corruption and extortion by unscrupulous officials ? Therefore, while fully supporting the measures that the Government is going to institute in order to uproot corruption, I would suggest:- to the Government that (a) there should be executive sympathy shown to cases of this kind so that the extorting and corrupt officials may be discouraged sufficiently and will not be able to carry on their nefarious trade in the country and (b) proper steps should be taken through the publicity and other departments to spread information about such legislation and what the public can do to rectify the situation in its own interests. As suggested by some friends, the people should be made a party to help the Government in order to suppress this evil, this cancer, which is eating into the morale of the entire nation like an infectious sore, because our age-old maxims declare, as most Members here know

यथा राजा तथा प्रजा (The people follow their rulers.)

राजानुगतो धर्मः (Moral law follows the example of rulers-)

As the Administration functions, as the great officials and Ministers of the State behave, as the example they set before the public impresses the public mind, so will be the morale of the nation, so dishonesty, bribery and corruption will disappear from the face of this long-suffering land. That was the message that Mahatma Gandhi exemplified in his

own life. Example is better than precept. In his own incorruptible life and by his own incorruptible practices he tried to impress upon the people that by being incorruptible only will Indians be able to achieve not only Swaraj but Swarajya, i.e., the Kingdom of Heaven, or Rama Rajya as we would like to call it. Only if people are incorruptible, peace and prosperity will descend upon this country. With these few words, Sir, I support the Bill.

SHRI O. SOBHANI (Hyderabad) : Mr. Deputy Chairman, I had taken part in the discussion on the Penal Code Amendment Act and I had no intention to speak on this Bill. I was hoping that there would be complete unanimity on this Bill, because all of us are agreed that corruption and bribery are eating into the vitals of our society and must be eradicated ruthlessly. But I was astounded to hear [some of the speeches from the opposite side. Sir, I expected that they would j pick out certain sections in the Prevention of Corruption Act (II) of 1947 and would request the Government to tighten the Act still further. For instance sub-section (1) of section 2 of that Act reads as follows :

"It extends to the whole of India except Part B States and it applies also to all citizens of India outside India."

I cannot understand why Part B States should be excluded from the operation of this Act. Going further down, section 5(i)(a) reads :

"A public servant is said to commit the offence of criminal misconduct in the discharge of his duty if he habitually accepts or obtains or agrees to accept etc., etc."

Why 'habitually' ? If we want to eradicate this evil, we must nip the evil in the bud and not wait until an official acquires a habit. Further down in clause (d) again the words 'if he habitually accepts or agrees' occur. Section 6 reads :

"No court shall take cognizance of an offence etc., alleged to have been committed by a public servant except with the previous sanction....."

I would respectfully suggest to the Government to add after the word

sanction' the following words 'which shall not be unduly delayed'. Subsection (8) of section 6 reads "in the case of a person who is employed in connection with the affairs of a Part A State and is not removable etc." Here also I submit that the words 'Part A' should be deleted and this Act should be further amended so as to apply to all the States.

SHRI J. R. KAPOOR : It has already been done.

SHRI O. SOBHANI : I am glad to know this. One thing more that I would suggest is that witnesses who come forward to testify to the fact that a certain official has accepted a bribe should be given protection ; otherwise their lives would be made miserable. I do hope that at least in the case of such measures, the Opposition will come forward with constructive suggestions ; I appreciate the attitude adopted by our friend from Orissa. With these words, Sir, I support this Bill wholeheartedly.

SHRI KISHEN CHAND (Hyderabad) : Mr. Deputy Chairman, Sir,...

SHRI H. N. KUNZRU : It is 1 o' clock.

MR. DEPUTY CHAIRMAN : He can continue in the afternoon.

The House stands adjourned till 3-30 in the afternoon.

The Council then adjourned for lunch till half past three of the clock.

The Council re-assembled after lunch at half past three of the clock, MR. CHAIRMAN in the Chair.

AMENDMENT TO THE RULES AND PERSONNEL OF THE BUSINESS ADVISORY COMMITTEE

MR. CHAIRMAN : I have to inform the hon. Members that on the recommendation of the Committee on Rules, I have made an amendment to the Rules of Procedure of the Council